

Honorable Frank A. Kurtz

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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

IN RE:) CHAPTER 7
)
HERNANDEZ, RAUL and ROCIO) CASE NO. 04-08902
)
Debtors,) ADV. NO. 06-80145
)
HERNANDEZ, RAUL and ROCIO)
) FINDINGS OF FACT AND
Plaintiff,) CONCLUSIONS OF LAW
v.)
BENEFICIAL WASHINGTON, INC.)
a Washington corporation, Defendant.)

Default was entered against defendant BENEFICIAL WASHINGTON, INC. The plaintiff requested entry of judgment, and the court having held an evidentiary hearing on December 10th, 2007, hereby makes the following FINDINGS OF FACT pursuant to FRBP 7052 and Fed. R. Civ. P. 52:

I. FINDINGS OF FACT

1. The above named debtors, RAUL AND ROCIO HERNANDEZ, filed Chapter 7 Bankruptcy case number 04-08902, in the Eastern District of Washington on December 8, 2004. Exhibit 1.

2. The Debtors listed a debt to BENEFICIAL on their schedule F, unsecured debts. Exhibit .

3. The Defendant was served with the Notice of Commencement of Case, which

FINDINGS OF FACT AND CONCLUSIONS OF
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1 Notified defendant of the Stay, which prohibits collection of the debt during the case.

2 4. In spite of being served Notice of the Bankruptcy, Defendant continued to make
3 attempts to collect on the debt. The Defendant was contacted by Subreena Slough, Office
4 Manager of The Steinberg Law Firm, on at least two occasions, after February 2, 2005, about the
5 attempts to collect on the debt by Defendant. Subreena Slough advised the Defendant about the
6 bankruptcy. Each time the Defendant advised that they would up date their records.

7 5. On February 5, 2005, and again on March 4, 2005, Mr. Steinberg sent letters to
8 Beneficial, notifying Beneficial of the Bankruptcy of their customers, all to no avail.

9 6. In spite of being notified, Defendant continued to make collection efforts via
10 telephone, by calling Mr. Hernandez, at one point 4 times in one day in April. This greatly upset
11 Mr. Hernandez, and he thinks about it to this day, and Defendant's actions have caused him
12 emotional distress.

13 7. In addition to the telephone calls, Defendant made written demands for payment, on
14 February 20, 2005, and again on March 20, 2005.

15 8. On April 1, 2005, This court issued a Discharge of Debts to the Debtors, which was
16 served on Defendant. [Exhibit 7].

17 9. On April 5, 2005, Defendant attempted to collect the debt again, sending a written
18 notice to the Debtors. The Defendant did this again on April 20, 2005, and on May 20, 2005, in
19 addition to the telephone calls referenced earlier.

20 **II. CONCLUSIONS OF LAW**

21 1. Plaintiff has proved that the Defendant has willfully violated the provisions of 11 USC
22 Sec. 362 (a) by attempting to collect the debt, numerous times.

23 2. Plaintiff has proved that Defendant has also ignored the discharge injunction provided

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for at 11 USC Sec. 524 (a)(2), by contacting the debtor 7 times after the discharge was entered, and served upon the Defendant.

3. Plaintiff is entitled to recover damages and attorneys fees pursuant to 11 USC Sec. 362(h), and for punishment for violating the discharge injunction in the total amount of \$3,500.00, plus attorney fees in the amount of \$1,620.00. Judgment to be presented separately.

Presented By:

STEINBERG LAW FIRM, P.S.

/s/Charles R. Steinberg
Charles R. Steinberg, WSBA #23980
Attorney for Debtors



Frank L. Kurtz
Frank L. Kurtz
Bankruptcy Judge

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FINDINGS OF FACT AND CONCLUSIONS OF
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